

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

319 - CV0086 - L

DAWN HERNON

2019 JAN 10 PM 12:12

Petitioner,

DEPUTY CLERK

Current Place of Confinement:

Federal Medical Center, Caswell

v.

UNITED STATES OF AMERICA,

BOP I.D. No.: 00782404

Respondent

COMPLAINT UNDER FEDERAL

TORT CLAIM ACT

28 USC. § 1346

JURY DEMAND

Jurisdiction and Venue

1. Petitioner brings this action against defendant/ Respondent, the United States of America, pursuant to the Federal Tort Claim Act, so that this Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. § 1346.
2. a. The Petitioner has complied with all prerequisites to a suit under the Federal Tort Claims Act in that on August 31, 2017, Petitioner timely filed an administrative claim for the matters in dispute in this action in the amount of \$1,500,000.00 with the Federal Bureau of Prisons, which claim was denied.  
b. This action was timely commenced following the denial of the administrative claim.
3. As a result of the fault of Respondents, by and through their agents, servants and employees

of Respondent, acting within the scope of their employment, Petitioner suffered excruciating severe pain and suffering due to serious medical complications that developed with her colostomy. Due to inadequate medical care Petitioner suffered for excruciatingly painful ulcers on her stoma and severe burning/irritated skin surrounding the peristomal skin. Inadequate medical supplies were provided to Petitioner which contributed to the severe medical complications. Petitioner was denied proper housing with a sanitary bathroom and shower where she could properly care for and clean her ostomy. It was over a year and one-half (1 1/2) before Petitioner could shower without the risk of contracting any number of life threatening diseases or illnesses. When Petitioner asked her team counselor for a room with a bathroom and shower so that she could properly care for her colostomy she was told, on more than one occasion "I don't cater to medical needs." If this is so, then why was Petitioner designated to a medical facility and housed on a medical unit. Petitioner has multiple witnesses to this statement that was made on multiple occasions by the employee of the Respondent. ②

Because Petitioner was denied her medical supplies when she was transported from the Oklahoma Transfer Center to Federal Medical Center Carswell, she had to endure excruciating severe pain and suffering due to the fact that she was forced to use the wrong medical supplies which caused severe ulcers on the stoma and peristomal skin around the stoma area.

Employees for the Respondent are not trained in caring for colostomy care and therefore repeatedly ordered the wrong supplies which prolonged the pain and suffering the petitioner had to endure.

It was only after Petitioner was taken to a colorectal specialist, over 9 months after entering into the Bureau of Prisons, that the correct supplies were provided to Petitioner. It was over 11 months before Petitioner was able to irrigate her colostomy with the proper appliance, when she should have been irrigating at least once a week to relieve her of the excess feces and gases in her intestine.

Respondents acted with deliberate indifference to Petitioner's serious medical condition and needs which resulted in the unnecessary and wanton infliction of pain. This is a violation of the Eighth Amendment as well as extreme cruel and unusual punishment to the petitioner. ③

Petitioner on approximately fifty occasions or more between the day of her incarceration, April 6, 2015 and the day she was finally seen by a colorectal specialist, addressed employees, medical staff, administrative staff and officers at FMC Carswell requesting that they care for the severe state that the ostomy was in, as I previously had a colostomy on my left side and never had any issues, such as the issues I was enduring with my current ostomy.

- ④ Defendants, by their above actions, failed to follow generally accepted medical standards. Had they done so, Petitioner would not have had to endure the excruciating severe pain and suffering for over a year while in Respondent's custody.
- ⑤ As a direct and proximate cause of the combined negligence of Respondents' agents, servants, and employees, Petitioner has suffered excruciating pain and suffering. As a result of Respondents' actions Petitioner has endured severe cruel and unusual punishment.
- ⑥ Petitioner requests that this Court render judgment against the defendants:

- A. In the sum to be shown at trial, but in no event less than \$1,500,000.00;
- B. Including whatever pre- and post judgment interest may be allowed by law, and that
- C. Petitioner be awarded costs of suit.

Dated: January 6, 2019

By Dawn Herndon  
Dawn Herndon, Pro Se  
Petitioner

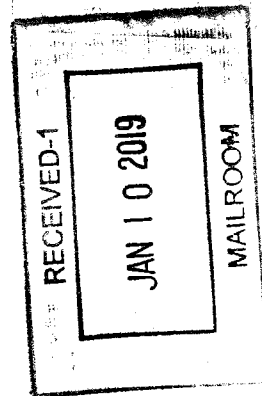
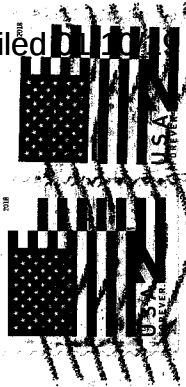
00782-104

P.O. Box 27137

Ft. Worth, TX 76127.

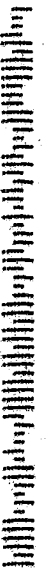
Name Dawn Herndon  
Reg. No. 00782-104  
Federal Medical Center, Carswell  
P.O. Box 27137  
Ft. Worth, TX 76127

NORTH TEXAS TX P&DC  
DALLAS TX 750  
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00782-104  
U S Courthouse  
1100 Commerce ST  
Northern District of Texas  
Dallas, TX 75242-1310  
United States

75242-131052



New Case

FMC Carswell  
P.O. Box 27066

Fort Worth, TX 76127

Mailed: 1-7-19

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